

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
	:	Chapter 11
In re:	:	
	:	Case No. 04-10899 (CB)
THE DELACO COMPANY,	:	
	:	
Debtor.	:	Related to Docket No. 133, 141
	x	

ORDER UNDER 11 U.S.C. § 362(d)
AND FED. R. BANKR. P. 4001 MODIFYING AUTOMATIC
STAY NUNC PRO TUNC TO ALLOW DISMISSAL OF LITIGATION

Upon the motion (the "Motion") by the above-captioned debtor and debtor-in-possession (the "Debtor"), for entry of an order under 11 U.S.C. § 362(d) and Fed. R. Bankr. P. 4001, modifying the automatic stay of 11 U.S.C. § 362(a) (the "Automatic Stay") only to the limited extent necessary to allow: (i) District Judge Barbara Jacobs Rothstein of the United States District Court for the Western District of Washington to determine, sign and enter in that multi-district litigation styled, In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W. D. Wa.) ("MDL 1407"), (a) the orders identified on Exhibit A hereto (the "Postpetition Orders"), and (b) orders related to the pending motions identified on Exhibit B hereto (the "Pending Motions"), and the prosecution of subsequent motions to reconsider and any appeals therefrom; (ii) plain-

tiffs in personal injury/wrongful death litigation and any courts in which such litigation is or was pending to take any and all actions necessary or appropriate to dismiss such litigation against the Debtor; and (iii) the Debtor to consent to any such dismissals, and with respect to any order entered pursuant to clause (i) above, to petition for reconsideration, modification, review or vacation or respond to any such petition; and the Court having determined that the requested relief is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and that adequate notice has been given and that no further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. To the extent necessary, the Automatic Stay is hereby modified, effective *nunc pro tunc* as of February 12, 2004, to allow Judge Barbara Jacobs Rothstein in MDL 1407 to determine, sign and enter orders related to the Pending Motions, to determine the matters discussed in the Postpetition Orders, and to sign and enter the Postpetition Orders. The Automatic Stay is also hereby modified to the extent necessary to permit any party with standing to prosecute or respond to any motion, application or petition for reconsideration, modification, review or vacation of, or appeal from, any order contemplated by the foregoing sentence.

2. To the extent necessary, the Automatic Stay is hereby modified, effective *nunc pro tunc* as of February 12, 2004, to allow plaintiffs in pending actions against the Debtor to dismiss such claims and causes of action, and to allow the Debtor and any court to take any action in furtherance of such dismissal.

3. Notwithstanding Fed. R. Bankr. P. 4001(a)(3), this Order shall take effect immediately upon entry and be effective *nunc pro tunc* as of February 12, 2004.

Dated: New York, New York
May 5, 2004

/s/Cornelius Blackshear
Honorable Cornelius Blackshear
United States Bankruptcy Judge

EXHIBIT A

POSTPETITION ORDERS

In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Feb. 25, 2004) [Docket No. 2500].

In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Mar. 30, 2004) [Docket No. 2578].

EXHIBIT B

PENDING MOTIONS

(As of April 21, 2004)

[Proposed] Order filed by Co-Liaison Counsel, for Dismissal with Prejudice for Cases in Which Plaintiffs Filed Untimely or No Individual Complaints Under CMOs 15 and 15A, In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Nov. 11, 2003).

Second [Proposed] Order filed by Co-Liaison Counsel, for Dismissal with Prejudice for Cases in Which Plaintiffs Filed Untimely or No Individual Complaints Under CMOs 15 and 15A, In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Dec. 8, 2003).

Defendants' Chattem, Inc. and The Delaco Company's December 16th, 2003 Motion to Dismiss For Plaintiffs' Failure to Comply with Court Ordered Discovery, In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Dec. 16, 2003).

Motion to Dismiss of Chattem, Inc. and Thompson Medical Company Pursuant to Rule 41(b), Federal Rules of Civil Procedure and for failure to Comply with CMO 13 and 13 A, In re Phenylpropanolamine (PPA) Prods. Liab. Litig., MDL 1407 (W.D. Wa. Jan. 22, 2004).